

## FEE AGREEMENT

This Fee Agreement dated \_\_\_\_\_, 2012 (this “Fee Agreement”), is by and among the City of Austin, Texas (the “City”), JPMorgan Chase Bank, National Association, (“JPMorgan”), State Street Bank and Trust Company (“State Street,” together with JPMorgan, the “Banks”, and each individually a “Bank”) and JPMorgan as agent for the Banks (the “Agent”). Reference is hereby made to the Second Amended and Restated Letter of Credit Reimbursement Agreement dated \_\_\_\_\_ 2012 (the “Reimbursement Agreement”) by and among the Banks, the Agent and the City relating to the City’s Combined Utility Systems Commercial Paper Notes, Series A (the “Notes”).

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Reimbursement Agreement.

The purpose of this Fee Agreement is to set forth the agreement among the City, the Banks and the Agent with respect to fees payable to the Banks and the Agent related to the Reimbursement Agreement and the Letter of Credit. This Fee Agreement constitutes the “Fee Agreement” as such term is defined in the Reimbursement Agreement.

### Article I

*Section 1.1 Definitions.* The terms “*Applicable Commitment Fee Percentage*” and “*Applicable Letter of Credit Fee Percentage*” have the meanings set forth below:

(a) “*Applicable Commitment Fee Percentage*” means the percentage amount determined as a function of the unenhanced rating assigned by a Rating Agency to either of the City’s Parity Electric Utility Obligations or Parity Water/Wastewater Obligations, whichever obligations have the lowest rating, in accordance with the schedule below.

#### Schedule

<u>Level</u>	<u>Rating</u> <u>Moody’s/S&amp;P/Fitch</u>	<u>Applicable</u> <u>Commitment Fee</u> <u>Percentage</u>
Level 1	A1 / A+/A+	.85%
Level 2	A2 / A/A	1.05%
Level 3	A3 / A-/A-	1.25%
Level 4	Baa1 / BBB+/BBB+	1.45%
Level 5	Baa2 / BBB/BBB	1.65%
Level 6	Baa3 / BBB-/BBB-	1.85%

In the event of split ratings among Moody’s, S&P and Fitch, the Applicable Commitment Fee Percentage shall be determined from the lowest of the three ratings. Any change in the

Applicable Commitment Fee Percentage resulting from a change in a rating shall be and become effective as of and on the date of the announcement of the change in such rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, each of the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The City acknowledges, and the Banks agree, that as of the Closing Date the Applicable Commitment Fee Percentage is that specified above for Level 1. Upon the occurrence and during the continuance of an Event of Default or in the event that any rating is suspended, withdrawn or is otherwise unavailable, in each case for credit related reasons, the Applicable Commitment Fee Percentage shall be increased from the rate then in effect by an additional one and one-half percent (1.50%). The Commitment Fee shall be payable quarterly in arrears, together with interest on the Commitment Fees from the date payment is due until payment in full at the Default Rate.

(b) “*Applicable Letter of Credit Fee Percentage*” means the percentage amount determined as a function of the unenhanced rating assigned by a Rating Agency to either of the City’s Parity Electric Utility Obligations or Parity Water/Wastewater Obligations, whichever obligations have the lowest rating, in accordance with the schedule below.

#### Schedule

<u>Level</u>	<u>Rating</u> <u>Moody’s/S&amp;P/Fitch</u>	<u>Applicable</u> <u>Letter of Credit Fee</u> <u>Percentage</u>
Level 1	A1 / A+/A+	.90%
Level 2	A2 / A/A	1.10%
Level 3	A3 / A-/A-	1.30%
Level 4	Baa1 / BBB+/BBB+	1.50%
Level 5	Baa2 / BBB/BBB	1.70%
Level 6	Baa3 / BBB-/BBB-	1.90%

In the event of split ratings among Moody’s, S&P and Fitch, the Applicable Letter of Credit Fee shall be determined from the lowest of the three ratings. Any change in the Applicable Letter of Credit Fee Percentage resulting from a change in a rating shall be and become effective as of and on the date of the announcement of the change in such rating. References to ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, each of the ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system which most closely approximates the applicable rating category as currently in effect. The City acknowledges, and the Banks agree, that as of the Closing Date the Applicable Letter of Credit Fee Percentage is that specified above for Level 1. Upon the occurrence and during the continuance of an Event of Default or in the event that any rating is suspended, withdrawn or is otherwise unavailable, in each case for credit related reasons, the Applicable Letter of Credit Fee Percentage shall be

increased from the rate then in effect by an additional one and one-half percent (1.50%). The Letter of Credit Fees shall be payable quarterly in arrears, together with interest on the Letter of Credit Fees from the date payment is due until payment in full at the Default Rate.

*Section 1.2 Letter of Credit and Commitment Fee.*

(a) Letter of Credit Fee. As of (A) the last Business Day in each Calendar Quarter (or portion thereof), commencing on the Date of Issuance for the Letter of Credit and ending on the Termination Date, and (B) the Termination Date for the Letter of Credit, the City shall pay to the Agent for the account of the Banks a letter of credit fee for the Letter of Credit (the "Letter of Credit Fee") for the Calendar Quarter (or portion thereof) then ending. The Letter of Credit Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) the Applicable Letter of Credit Fee Percentage times (2) the Stated Amount times (3) a fraction, the numerator of which is the number of days in such Calendar Quarter (or portion thereof) and the denominator of which is 360. The Letter of Credit Fee shall be due and owing as referenced above, and shall be payable, in arrears, as set forth in Section 1.2(c) below. In the event more than one Applicable Letter of Credit Fee Percentage or Stated Amount is in effect during a Calendar Quarter, the Letter of Credit Fee shall be determined by calculating a separate fee for each portion of such Calendar Quarter to which a different Applicable Letter of Credit Fee Percentage or Stated Amount applied and adding such separate fees together to determine the total Letter of Credit Fee for such Calendar Quarter.

(b) Commitment Fee. As of (A) the last Business Day in each Calendar Quarter (or portion thereof), commencing on the Date of Issuance for the Letter of Credit and ending on the Commitment Expiration Date, and (B) the Commitment Expiration Date the City shall pay to the Agent for the account of the Banks a commitment fee for the Total Unutilized Commitment (the "Commitment Fee") for the Calendar Quarter (or portion thereof) then ending. The Commitment Fee for such Calendar Quarter (or portion thereof) shall be an amount equal to the product of (1) the Applicable Commitment Fee Percentage times (2) the amount of the Total Unutilized Commitment times (3) a fraction, the numerator of which is the number of days in such Calendar Quarter (or portion thereof) and the denominator of which is 360. The Commitment Fee shall be due and owing as referenced above, and shall be payable, in arrears, as set forth in Section 1.2 (c) below. In the event more than one Applicable Commitment Fee Percentage or Total Unutilized Commitment amount is in effect during a Calendar Quarter, the Commitment Fee shall be determined by calculating a separate fee for each portion of such Calendar Quarter to which a different Applicable Commitment Fee Percentage or Total Unutilized Commitment amount applied and adding such separate fees together to determine the total Commitment Fee for such Calendar Quarter.

(c) Payment of Letter of Credit Fee and Commitment Fee. All fees payable to the Banks under subsection (a) and (b) above shall be paid to the Agent for the account of the Banks on or before the twelfth (12th) Business Day following the date on which the City receives written notice from the Agent specifying the amount of such fees, which notice shall be given as soon as practicable following the end of each Calendar Quarter. All calculations of the fees payable under this Reimbursement Agreement shall be made by the Agent and such calculations, absent manifest error, shall be conclusive of the amount due and shall be binding on the City.

No fees payable to the Agent and the Banks may be paid from Note proceeds. No fees paid to the Agent and the Banks shall be refundable for any reason other than a manifest error in the calculation of the fee. As used herein “manifest error” means an arithmetic mistake.

(d) Payment of Letter of Credit Fee and Commitment Fee under 2010 Reimbursement Agreement. The City hereby agrees that fees accruing under the 2010 Reimbursement Agreement prior to the Closing Date for the Reimbursement Agreement shall be payable pursuant to the terms of the 2010 Reimbursement Agreement together with the fees due under this Fee Agreement on the date fees described herein are due for the Calendar Quarter ending December 31, 2012.

*Section 1.3 Drawing Fee.* The City agrees to pay to the Agent for the account of the Banks a drawing fee of \$500 per Bank for each Drawing under the Letter of Credit. The drawing fee shall be payable on the same day as the related Drawing.

*Section 1.4 Change in Stated Amount Fee.* Upon any adjustment in the Stated Amount of the Letter of Credit pursuant to Section 2.02 of the Reimbursement Agreement, the City shall pay a fee of \$250 per Bank to the Agent for the account of the Banks, plus the Agent’s and the Banks’ actual costs and expenses associated with such amendment, payable on the date of such change.

*Section 1.5 Amendment and Transfer Fee.* The City agrees to pay, or cause to be paid, to the Agent for the account of the Banks, on the date of each amendment to the Letter of Credit or the Reimbursement Agreement, transfer of the Letter of Credit to a successor beneficiary, or execution of any standard waiver or consent, a non-refundable fee equal to \$5,000 per Bank, plus, in each case, the reasonable fees and expenses of counsel to the Banks; *provided, however*, that the fee payable pursuant to this Section 1.5 shall not be required in connection with an amendment executed solely for the purpose of extending the Letter of Credit Expiration Date in accordance with the terms of the Letter of Credit or making adjustments to the Stated Amount pursuant to Section 2.02 of the Reimbursement Agreement.

*Section 1.6 Termination Fee.* If required under the Reimbursement Agreement, upon a termination or replacement of the Letter of Credit, the City shall pay to the Agent for the account of the Banks a termination fee in an amount equal to the Letter of Credit Fee and the Commitment Fee (based upon the amount of the Total Commitment in effect on March 29, 2010, the Closing Date of the 2010 Reimbursement Agreement) that would be due up to and including the Letter of Credit Expiration Date, less the actual amount of Letter of Credit Fees and Commitment Fees the City has previously paid to the Banks.

*Section 1.7 Legal Fees.* The City shall pay on the Closing Date the legal fees of Andrews Kurth LLP for preparation of the Reimbursement Agreement and this Fee Agreement.

*Section 1.8 Bank Out of Pocket Expenses.* On the Closing Date, the City shall pay the Banks’ out-of-pocket expenses (if any) in an amount not to exceed \$2,500 per Bank.

*Section 1.9 Agent Expenses.* As a condition of closing on the Reimbursement Agreement, the City shall pay to the Agent an amount not to exceed \$3,000, in connection with

the preparation, execution and delivery of the Reimbursement Agreement, the Related Documents and any other documents which may be delivered in connection with this Reimbursement Agreement and the Related Documents.

*Section 1.10 Past Due Amounts.* Any amounts due to the Banks or the Agent hereunder that are past due shall accrue interest at the Default Rate from the date due but excluding the date of payment in full.

*Section 1.11 Fee Calculation.* Fees payable hereunder shall be calculated on the basis of a year of 360 days and the actual number of days elapsed.

## Article II. Miscellaneous.

*Section 2.1 Amendments.* No amendment to this Fee Agreement shall become effective without the prior written consent of the Banks, the Agent and the City.

*Section 2.2. Governing Law.* **THIS FEE AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS; PROVIDED, THAT THE OBLIGATIONS OF THE BANK SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

*Section 2.3. Counterparts.* This Fee Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Fee Agreement may be delivered by the exchange of signed signature pages by facsimile transmission or by email with a pdf copy or other replicating image attached, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

*Section 2.4. Severability.* Any provision of this Fee Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

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IN WITNESS WHEREOF, the parties hereto have caused this Fee Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, AS BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE STREET BANK AND TRUST  
COMPANY, AS BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION, AS AGENT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_